

110TH CONGRESS
1ST SESSION

H. R. 2858

To promote the production and use of ethanol.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2007

Mr. TERRY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science and Technology and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote the production and use of ethanol.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITION ON FRANCHISE AGREEMENT RE-**
4 **STRICTIONS RELATED TO RENEWABLE FUEL**
5 **INFRASTRUCTURE.**

6 (a) IN GENERAL.—Title I of the Petroleum Mar-
7 keting Practices Act (15 U.S.C. 2801 et seq.) is amended
8 by adding at the end the following:

1 **“SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLA-**
2 **TION OF RENEWABLE FUEL PUMPS.**

3 “(a) DEFINITION.—In this section:

4 “(1) RENEWABLE FUEL.—The term ‘renewable
5 fuel’ means any fuel—

6 “(A) at least 85 percent of the volume of
7 which consists of ethanol; or

8 “(B) any mixture of biodiesel or renewable
9 diesel (as defined in regulations adopted pursu-
10 ant to section 211(o) of the Clean Air Act (40
11 C.F.R., Part 80)) and diesel fuel, determined
12 without regard to any use of kerosene and con-
13 taining at least 10 percent biodiesel or renew-
14 able diesel.

15 “(2) FRANCHISE-RELATED DOCUMENT.—The
16 term ‘franchise-related document’ means—

17 “(A) a franchise under this Act; and

18 “(B) any other contract or directive of a
19 franchisor relating to terms or conditions of the
20 sale of fuel by a franchisee.

21 “(b) PROHIBITIONS.—

22 “(1) IN GENERAL.—Notwithstanding any provi-
23 sion of a franchise-related document in effect on the
24 date of enactment of this section, no franchisee or
25 affiliate of a franchisee shall be restricted by its
26 franchisor from—

1 “(A) installing on the marketing premises
2 of the franchisee a renewable fuel pump or
3 tank, except that the franchisee’s franchisor
4 may restrict the installation of a tank on leased
5 marketing premises of such franchisor;

6 “(B) converting an existing tank or pump
7 on the marketing premises of the franchisee for
8 renewable fuel use, so long as such tank or
9 pump and the piping connecting them are ei-
10 ther warranted by the manufacturer or certified
11 by a recognized standards setting organization
12 to be suitable for use with such renewable fuel;

13 “(C) advertising (including through the
14 use of signage) the sale of any renewable fuel;

15 “(D) selling renewable fuel in any specified
16 area on the marketing premises of the
17 franchisee (including any area in which a name
18 or logo of a franchisor or any other entity ap-
19 pears);

20 “(E) purchasing renewable fuel from
21 sources other than the franchisor if the
22 franchisor does not offer its own renewable fuel
23 for sale by the franchisee;

1 “(F) listing renewable fuel availability or
2 prices, including on service station signs, fuel
3 dispensers, or light poles; or

4 “(G) allowing for payment of renewable
5 fuel with a credit card,

6 so long as such activities do not constitute willful
7 adulteration, mislabeling, or misbranding of motor
8 fuels or other trademark violations by the franchisee.

9 “(2) EFFECT OF PROVISION.—Any restriction
10 described in paragraph (1) that is contained in a
11 franchise-related document and in effect on the date
12 of enactment of this section shall be considered to be
13 null and void as of that date.

14 “(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No
15 franchise-related document that requires that 3 grades of
16 gasoline be sold by the applicable franchisee shall prevent
17 the franchisee from selling an renewable fuel in lieu of
18 1, and only 1, grade of gasoline.”.

19 (b) ENFORCEMENT.—Section 105 of the Petroleum
20 Marketing Practices Act (15 U.S.C. 2805) is amended by
21 striking “102 or 103” each place it appears and inserting
22 “102, 103, or 107”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) IN GENERAL.—Section 101(13) of the Pe-
25 troleum Marketing Practices Act (15 U.S.C.

1 2801(13)) is amended by adjusting the indentation
2 of subparagraph (C) appropriately.

3 (2) TABLE OF CONTENTS.—The table of con-
4 tents of the Petroleum Marketing Practices Act (15
5 U.S.C. 2801 note) is amended—

6 (A) by inserting after the item relating to
7 section 106 the following:

“Sec. 107. Prohibition on restriction of installation of renewable fuel pumps.”;

8 and

9 (B) by striking the item relating to section
10 202 and inserting the following:

“Sec. 202. Automotive fuel rating testing and disclosure requirements.”.

11 **SEC. 2. REPLACING CORN AS AN ETHANOL FEEDSTOCK.**

12 (a) RESEARCH AND DEVELOPMENT PROGRAM.—The
13 Secretary of Energy shall establish a program to make
14 grants of not to exceed \$1,000,000 each to no more than
15 10 universities for a 3-year program of demonstration of
16 replacing corn as an ethanol feedstock with sweet sor-
17 ghum.

18 (b) PROGRAM GOALS.—The goals of the program
19 under this section shall be to—

20 (1) enhance agronomic efficiency of the crop on
21 marginal lands by—

22 (A) developing best management practices
23 for maintaining high sorghum yields while using
24 less water and nitrogen than corn;

1 (B) identifying and selecting plants with a
2 high sugar content; and

3 (C) developing cold tolerant sweet sorghum
4 varieties to enable two crops to be grown per
5 season;

6 (2) enhance ethanol processing potential in the
7 crop by—

8 (A) developing a robust technology for cen-
9 tralized and ethanol production facilities that
10 pair high-performing sweet sorghum lines with
11 different yeasts to produce the best process for
12 converting sweet sorghum juice into ethanol;

13 (B) conducting process and chemical anal-
14 yses of sweet sorghum sap fermentation;

15 (C) introducing cellulosic hydrolyzing en-
16 zymes into sweet sorghum to promote biomass
17 conversion; and

18 (D) performing life-cycle analysis of sweet
19 sorghum-ethanol, including energy yield, effi-
20 ciency, and greenhouse gas reduction;

21 (3) establish a sweet sorghum production sys-
22 tem optimized for the region of the university con-
23 ducting the research;

1 (4) improve sweet sorghum lines with higher
2 sugar production and performance with minimal ag-
3 ricultural inputs;

4 (5) optimize sugar fermentation using selected
5 yeast strains;

6 (6) develop sweet sorghum lines with improved
7 cold tolerance and cellulosic degradation; and

8 (7) develop agricultural models for predicting
9 agricultural performance and ethanol yield under
10 various growing conditions.

11 (c) AWARD CRITERIA.—The Secretary shall award
12 grants under this section only to universities that—

13 (1) have access to multiple lines of sweet sor-
14 ghum for research; and

15 (2) are located in a State where sweet sorghum
16 is anticipated to grow well on marginal lands.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary for car-
19 rying out this section \$10,000,000.

20 **SEC. 3. CLOSED LOOP ETHANOL PROJECT LOAN GUARAN-**
21 **TEES.**

22 (a) CLEAN AIR ACT AMENDMENTS.—Section 212 of
23 the Clean Air Act (42 U.S.C. 7546) is amended—

24 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1)
2 through (3) as paragraphs (2) through (4), re-
3 spectively; and

4 (B) by inserting before paragraph (2), as
5 so redesignated by subparagraph (A) of this
6 paragraph, the following new paragraph:

7 “(1) CLOSED LOOP ETHANOL.—The term
8 ‘closed loop ethanol’ means a facility in which—

9 “(A) solid and liquid waste is collected
10 from agricultural animals in a concentrated lo-
11 cation together with cellulosic and other bio
12 mass from agricultural crops;

13 “(B) such waste is used to generate fuel;

14 “(C) such fuel is used to produce ethanol
15 at the same location; and

16 “(D) the need for fossil fuel in the produc-
17 tion of ethanol and the drying of distillers
18 grains is reasonably expected to be at least 90
19 percent less than in a comparably sized tradi-
20 tional ethanol facility powered by fossil fuel.”;

21 (2) in subsection (b)(1), by inserting “, includ-
22 ing closed loop ethanol projects” after “sucrose-de-
23 rived ethanol”;

24 (3) in subsection (b)(2)(A), by striking “not
25 more than 4”; and

1 (4) in subsection (b)(5), by inserting “, or at
 2 least 10 percent in the case of closed loop ethanol
 3 facilities” after “total project cost”.

4 (b) LOAN GUARANTEE PROGRAM AMENDMENTS.—
 5 Section 1510 of the Energy Policy Act of 2005 (42 U.S.C.
 6 16501) is amended—

7 (1) in subsection (b), by striking “for the con-
 8 struction of facilities” and inserting “, and Federal,
 9 State, and locally issued industrial revenue bonds in
 10 the case of closed loop ethanol facilities, for the con-
 11 struction of facilities, including closed loop ethanol
 12 facilities,”; and

13 (2) in subsection (e), by inserting “, or not
 14 more than 30 years in the case of closed loop eth-
 15 anol facilities” after “20 years”.

16 **SEC. 4. MODIFICATION OF ALTERNATIVE FUEL VEHICLE**
 17 **REFUELING PROPERTY CREDIT.**

18 (a) INCREASE IN CREDIT AMOUNT.—Section 30C of
 19 the Internal Revenue Code of 1986 (relating to alternative
 20 fuel vehicle refueling property credit) is amended—

21 (1) by striking “30 percent” in subsection (a)
 22 and inserting “50 percent”, and

23 (2) by striking “\$30,000” in subsection (b)(1)
 24 and inserting “\$50,000”.

1 (b) EXTENSION OF CREDIT.—Subsection (g) section
2 30C of such Code (relating to termination) is amended
3 to read as follows:

4 “(g) TERMINATION OF AVAILABILITY OF CREDIT.—
5 This section shall not apply to property placed in service
6 after December 31, 2014.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 the date of the enactment of this Act, in taxable years
10 ending after such date.

11 **SEC. 5. REFUELING PROPERTY FOR BIODIESEL AND RE-**
12 **NEWABLE BIODIESEL.**

13 (a) IN GENERAL.—Paragraph (1) of section 179A(e)
14 of the Internal Revenue Code of 1986 is amended by strik-
15 ing “and” at the end of subparagraph (E), by striking
16 the period at the end of subparagraph (F) and inserting
17 “, and”, and by inserting after subparagraph (F) the fol-
18 lowing new subparagraph:

19 “(G) any mixture of diesel fuel (as defined
20 in section 4083(a)(3)), determined without re-
21 gard to any use of kerosene, at least 10 percent
22 of which is 1 or more of the following: biodiesel
23 or renewable biodiesel, as such terms are de-
24 fined in section 40A.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 the date of the enactment of this Act, in taxable years
4 ending after such date.

5 **SEC. 6. INCREASE IN CREDIT FOR RESEARCH RELATING TO**
6 **ALTERNATIVE AND RENEWABLE ENERGY**
7 **PROCESSES.**

8 (a) IN GENERAL.—Section 41 of the Internal Rev-
9 enue Code of 1986 is amended by redesignating subsection
10 (h) as subsection (i) and by inserting after subsection (g)
11 the following new subsection:

12 “(h) INCREASE IN CREDIT AMOUNT FOR RESEARCH
13 RELATING TO ALTERNATIVE AND RENEWABLE ENERGY
14 PROCESSES.—

15 “(1) IN GENERAL.—In the case of any expense
16 or payment relating to a qualified resource—

17 “(A) subsection (a) shall be applied by
18 substituting ‘40 percent’ for ‘10 percent’ each
19 place it occurs,

20 “(B) subsection (c)(4) shall be applied by
21 substituting ‘6 percent’ for ‘3 percent’ in sub-
22 paragraph (A)(i), ‘8 percent’ for ‘4 percent’ in
23 subparagraph (A)(ii), and ‘10 percent’ for ‘5
24 percent’ in subparagraph (A)(iii),

1 “(C) subsection (c)(5) shall be applied by
 2 substituting ‘24 percent’ for ‘12 percent’ in
 3 subparagraph (A) and ‘12 percent’ for ‘6 per-
 4 cent’ in subparagraph (B)(ii), and

5 “(D) such expense or payment shall be
 6 taken into account for purposes of this section
 7 after taking into account expenses and pay-
 8 ments which do not relate to a qualified re-
 9 source.

10 “(2) QUALIFIED RESOURCE.—For purposes of
 11 paragraph (1), the term ‘qualified resource’ means—

12 “(A) any clean-burning fuel (as defined in
 13 section 179A(e)(1), other than diesel fuel), and

14 “(B) any closed-loop system, including any
 15 anaerobic digester.”.

16 (b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
 17 TAX.—Subparagraph (B) of section 38(c)(4) of such Code
 18 is amended by striking “and” at the end of clause (i), by
 19 striking the period at the end of clause (ii) and inserting
 20 “, and”, and by inserting after clause (ii) the following
 21 new clause:

22 “(iii) the credit determined under sec-
 23 tion 41 to the extent that such credit is at-
 24 tributable to the increase for research re-

1 lating to alternative and renewable energy
2 processes under subsection (h) thereof.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to property placed in service after
5 December 31, 2007.

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